



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

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DECISION OF THE BOARD

Mailed and Filed: OCTOBER 31, 2022

IN THE MATTER OF:

Appeal Board No. 624516

PRESENT: JUNE F. O'NEILL MEMBER

In Appeal Board No. 624514, the claimant appeals from the decision of the Administrative Law Judge filed June 13, 2022, which sustained the initial determination holding the claimant ineligible to receive benefits, effective November 1, 2021 through November 28, 2021, on the basis that the claimant did not comply with registration requirements.

In Appeal Board No. 624515, the claimant appeals from the decision of the Administrative Law Judge filed June 13, 2022, which sustained the initial determination holding the claimant ineligible to receive benefits, effective January 3, 2022 through January 9, 2022, on the basis that the claimant failed to certify for the benefit period within the seven-day period for such certification.

In Appeal Board No. 624516, the claimant appeals from the decision of the Administrative Law Judge filed June 13, 2022, which sustained the initial determination holding the claimant ineligible to receive benefits, effective January 10, 2022 through February 28, 2022, on the basis that the claimant did not comply with registration requirements.

At the combined telephone conference hearing before the Administrative Law Judge, all parties were accorded a full opportunity to be heard and testimony was taken. There were appearances on behalf of the claimant and the Commissioner of Labor.

We have reviewed the entire record and have considered the testimony and other evidence. It appears that no errors of fact or law have been made in Appeal

Board No. 624514. The findings of fact and the opinion of the Administrative Law Judge are fully supported by the record and, therefore, are adopted as the findings of fact and the opinion of the Board, except we do not make any findings with respect to the reason the claimant did not have her driver's license. Rather, we find and conclude that the claimant did not file her claim until November 29, 2021 because she was gathering information. This circumstance does not constitute good cause to backdate the claimant's claim.

In Appeal Board Nos. 624515 and 624516, based on the record and testimony in this case, the Board makes the following

FINDINGS OF FACT: After losing her job on November 1, 2021, the claimant filed a claim for benefits on November 29, 2021. She had never claimed unemployment benefits before. She certified for benefits, by telephone, for each of the weeks ending December 5, 2021 through January 2, 2022.

On or about January 3, 2022, the claimant received a notice of determination informing her that she was disqualified from receiving benefits because she lost her job by reason of misconduct. When the claimant attempted to certify for benefits by telephone for the week ending January 9, 2022, she received a message from the Department of Labor's system informing her that she was disqualified. The system then hung up on her, and she was unable to certify.

The claimant requested a hearing regarding the misconduct disqualification. She did not make any further attempts to certify for benefits while she awaited her hearing. After a hearing held March 4, 2022, the Judge issued a decision overruling the initial determination of misconduct and allowing benefits to the claimant. The claimant resumed certifying for benefits beginning with the week ending March 6, 2022.

OPINION: The credible evidence establishes that, after filing her unemployment insurance claim on November 29, 2021, the claimant certified for benefits every week until she received a message from the Department of Labor's system stating that she was disqualified. The system then ended the phone call, leaving her unable to certify. The claimant had never claimed unemployment insurance benefits before, and she credibly testified that she thought it was normal that someone who did not qualify for benefits would not be allowed to certify. Based on the claimant's credible first-hand testimony, we conclude that the claimant has shown good cause for failing to certify for the week ending January 9, 2022, and for failing to register for the period from

January 10, 2022 through February 28, 2022. Accordingly, we conclude that the claimant is allowed benefits.

DECISION: The decisions of the Administrative Law Judge are modified as follows and, as so modified, are affirmed.

In Appeal Board No. 624514, the initial determination, holding the claimant ineligible to receive benefits, effective November 1, 2021 through November 28, 2021, on the basis that the claimant did not comply with registration requirements, is sustained.

In Appeal Board No. 624515, the initial determination, holding the claimant ineligible to receive benefits, effective January 3, 2022 through January 9, 2022, on the basis that the claimant failed to certify for the benefit period within the seven-day period for such certification, is overruled.

In Appeal Board No. 624516, the initial determination, holding the claimant ineligible to receive benefits, effective January 10, 2022 through February 28, 2022, on the basis that the claimant did not comply with registration requirements, is overruled.

JUNE F. O'NEILL, MEMBER